

### Subpart 8.6—Acquisition From Federal Prison Industries, Inc.

#### 8.601 General.

(a) Federal Prison Industries, Inc. (FPI), also referred to as UNICOR, is a self-supporting, wholly owned Government corporation of the District of Columbia.

(b) FPI provides training and employment for prisoners confined in Federal penal and correctional institutions through the sale of its supplies and services to Government agencies (18 U.S.C. 4121–4128).

(c) FPI diversifies its supplies and services to prevent private industry from experiencing unfair competition from prison workshops or activities.

[48 FR 42129, Sept. 19, 1983, as amended at 56 FR 15148, Apr. 15, 1991]

#### 8.602 Policy.

(a) Agencies shall purchase required supplies of the classes listed in the Schedule of Products made in Federal Penal and Correctional Institutions (referred to in this subpart as *the Schedule*) at prices not to exceed current market prices, using the procedures in this subpart.

(b) Subject to the priorities in 8.001 and 8.603, agencies are encouraged to use the facilities of FPI to the maximum extent practicable in purchasing (1) supplies that are not listed in the Schedule, but that are of a type manufactured in Federal penal and correctional institutions, and (2) services that are listed in the Schedule.

(c) If a supply not listed in the Schedule is of a type normally produced by Federal penal and correctional institutions, agencies are encouraged to suggest that FPI consider the feasibility of adding the item to its Schedule.

[48 FR 42129, Sept. 19, 1983, as amended at 56 FR 15148, Apr. 15, 1991]

#### 8.603 Purchase priorities.

(a) FPI and nonprofit agencies participating in the Javits-Wagner-O'Day (JWOD) Program (see subpart 8.7) may produce identical supplies or services. When this occurs, ordering offices shall purchase supplies and services in the following priorities:

(1) Supplies:

(i) Federal Prison Industries, Inc. (41 U.S.C. 48).

(ii) JWOD participating nonprofit agencies.

(iii) Commercial sources.

(2) Services:

(i) JWOD participating nonprofit agencies.

(ii) Federal Prison Industries, Inc., or commercial sources.

(b) Supplies and services manufactured or performed by FPI are in strict conformity with Federal Specifications. These supplies and services are listed in the Schedule. Copies of the Schedule are available from Federal Prison Industries, Inc., Department of Justice, Washington, DC 20534.

[48 FR 42129, Sept. 19, 1983, as amended at 56 FR 15149, Apr. 15, 1991; 59 FR 67027, Dec. 28, 1994]

#### 8.604 Ordering procedures.

(a) Contracting officers shall order (1) less-than-carload lots of common-use items (Schedule A of the Schedule) from the regional warehouses of GSA, unless it is more practical and economical to purchase directly from FPI, and (2) carload lots of common-use items, and other items listed in the Schedule, from FPI.

(b) Contracting officers shall prepare orders to FPI using the procedures in the Schedule.

(c) When the contracting officer believes that the FPI price exceeds the market price, the matter may be referred to the cognizant product division identified in the Schedule or to the FPI Washington office for resolution.

#### 8.605 Clearances.

(a) Clearance is required from FPI before supplies on the Schedule are acquired from other sources, except when the conditions in 8.606 apply. FPI clearances ordinarily are of the following types:

(1) General or blanket clearances issued when classes of articles or services are not available from FPI.

(2) Formal clearances issued in response to requests from offices desiring to acquire, from other sources, supplies listed in the Schedule and not covered by a general clearance. Requests should be addressed to Federal Prison

Industries, Inc., Department of Justice, Washington, DC 20534.

(b) Purchases from other sources because of a lower price are not normally authorized, and clearances will not be issued on this basis except as a result of action taken to resolve questions of price under 8.604(c).

(c) Disputes regarding price, quality, character, or suitability of supplies produced by FPI are subject to arbitration as specified in 18 U.S.C. 4124. The statute provides that the arbitration shall be conducted by a board consisting of the Comptroller General of the United States, the Administrator of General Services, and the President, or their representatives. The decisions of the board are final and binding on all parties.

[48 FR 42129, Sept. 19, 1983, as amended at 56 FR 15149, Apr. 15, 1991]

#### **8.606 Exceptions.**

FPI clearances are not required when—

(a) Public exigency requires immediate delivery or performance;

(b) Suitable used or excess supplies are available;

(c) Purchases are made from GSA of less-than-carload lots of common-use items stocked by GSA (see Schedule A of the Schedule);

(d) The supplies are acquired and used outside the United States; or

(e) Orders are for listed items totaling \$25 or less that require delivery within 10 days.

[48 FR 42129, Sept. 19, 1983, as amended at 56 FR 15149, Apr. 15, 1991]

### **Subpart 8.7—Acquisition From Nonprofit Agencies Employing People Who Are Blind or Severely Disabled**

#### **8.700 Scope of subpart.**

This subpart prescribes the policies and procedures for implementing the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c), referred to in this subpart as “the JWOD Act,” and the rules of the Committee for Purchase from People Who

Are Blind or Severely Disabled (41 CFR chapter 51).

[59 FR 67027, Dec. 28, 1994]

#### **8.701 Definitions.**

*Allocation*, as used in this subpart, means an action taken by a central nonprofit agency to designate the JWOD participating nonprofit agencies that will furnish definite quantities of supplies or perform specific services upon receipt of orders from ordering offices.

*Central nonprofit agency*, as used in this subpart, means National Industries for the Blind (NIB), which has been designated to represent people who are blind; or NISH, which has been designated to represent JWOD participating nonprofit agencies serving people with severe disabilities other than blindness.

*Committee*, as used in this subpart, means the Committee for Purchase from People Who Are Blind or Severely Disabled.

*Government or entity of the Government* means any entity of the legislative or judicial branch, any executive agency, military department, Government corporation, or independent establishment, the U.S. Postal Service, or any nonappropriated-fund instrumentality of the Armed Forces.

*Ordering office* means any activity in an entity of the Government that places orders for the purchase of supplies or services under the JWOD Program.

*Procurement List*, as used in this subpart, means a list of supplies (including military resale commodities) and services that the Committee has determined are suitable for purchase by the Government under the Javits-Wagner-O'Day Act.

*Nonprofit agency serving people who are blind or nonprofit agency serving people with other severe disabilities* (referred to jointly as JWOD participating nonprofit agencies) means a qualified nonprofit agency employing people who are blind or have other severe disabilities approved by the Committee to furnish a commodity or a service to the Government under the Act.

[59 FR 67027, Dec. 28, 1994]